

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

LINDA SUE SIMMONS

PLAINTIFF

v.

CAUSE NO. 1:16CV184-LG-LRA

SOCIAL SECURITY ADMINISTRATION

DEFENDANT

ORDER DISMISSING ACTION

This matter comes before the Court *sua sponte* for consideration of dismissal of this action based on lack of subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(h)(3). On September 16, 2016, the Court ordered *pro se* Plaintiff Linda Sue Simmons to file an Amended Complaint, to include the setting forth the basis of the Court's jurisdiction over her purported claim against the Social Security Administration (SSA). (*See generally* Order, ECF No. 5).

On September 21, 2016, Simmons filed her [6] Amended Complaint. Having reviewed the Amended Complaint, the Court is of the opinion that it lacks subject-matter jurisdiction over this action. *See* Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.").

Specifically, the Amended Complaint contains the same deficiencies identified by the Court in the original Complaint. Simmons again attaches medical records to the Amended Complaint, with no explanation. There is no allegation or information tending to show that Simmons has exhausted her administrative remedies. Construing the Amended Complaint liberally, the Court is unable to

discern if the SSA has ever considered, much less denied Simmons SSA benefits. As a result, the Court has no choice but to dismiss this action. *See Celestine v. Soc. Sec. Admin.*, 486 F. App'x 418, 419 (5th Cir. 2012); *see also Honeo v. Harris*, 498 F. Supp. 1169, 1172 (S.D. Miss. 1980).

IT IS THEREFORE ORDERED that this action is **DISMISSED**. The Clerk is **ORDERED** to mail a copy of this Order to Plaintiff Linda Sue Simmons at the address provided.

SO ORDERED AND ADJUDGED this the 22nd day of September, 2016.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE